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**JUN 30 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Scott A. Hogan :  
Application No. 10/790,539 : **ON PETITION**  
Filed: March 1, 2004 :  
Attorney Docket No.: 057888028-0063 :

This is a decision on the petition filed June 10, 2004, titled "Petition under 37 CFR 1.182 to Maintain Filing Date and Preliminary Amendment to Drawings" filed in response to the Notice of Omitted Item(s) in a Nonprovisional Application filed under 37 CFR 1.53(b). The instant petition will be treated as a petition to vacate the Notice of omitted Items in Nonprovisional Application.

The petition is **dismissed**.

On March 1, 2004, the above-identified application was filed. However, on May 20, 2004 the Office of Initial Patent Examination mailed a Notice to of Omitted Items in Nonprovisional Application, stating that application had been accorded a filing date of March 1, 2004, and advising applicant that Figures 5a and 5b as described in the specification appeared to have been omitted. The notice allowed a two-month period for reply.

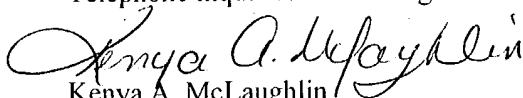
In response, on June 10, 2004, applicant filed the present petition. Petitioner explains that Figures 5a-5b were omitted, but that petitioner desires to retain the current filing date with only those papers filed on March 1, 2004, as part of the original disclosure. Petitioner requests that Figures 5a and 5b filed on June 10, 2004, be considered as a preliminary amendment.

Because the specification describes Figures 5a and 5b and those figures were not found among the drawings, the Office of Initial Patent Examination correctly issued the Notice of Omitted Items in Nonprovisional Application and will not be vacated. The original disclosure of the application will consist of those papers received on March 1, 2004.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of March 1, 2004.

Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of Figures 5a and 5b filed as a preliminary amendment on June 10, 2004.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 305-0010.

  
Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions